

**Division 1:  
Prehospital  
Environment**

**Section 3. Medical/Legal Considerations**



<b>TOPIC</b>	<b>CONTENT OUTLINE</b>
<b>Introduction</b>	The student must have successfully completed the following Sections prior to participating in this Section: Section 1. Roles and Responsibilities Section 2. EMS Systems
<b>Overview</b>	I. Introduction II. Essential Principles III. Standard of Care IV. Medical Liability V. Areas of Potential Medical Liability VI. Medical Liability Protection
<b>Objectives</b>	At the completion of this section, the student will be able to: 1.3.1 Discuss the significance and scope of the following in relationship to EMT practice: a. State Medical Practice Act. b. Good Samaritan Act/ Civil Immunity. c. State EMS statutes. d. State motor vehicle codes. e. State and local guidelines for "Do Not Resuscitate." 1.3.2 Define the following: a. Negligence b. Medical liability c. Tort d. Duty to act e. Battery f. Slander g. Informed consent h. Expressed consent i. Implied consent j. Abandonment k. Liable l. Assault m. False imprisonment 1.3.3 Describe the significance of accurate documentation and record keeping in substantiating incident. 1.3.4 Identify those situations that require the EMT-I to report those incidents to appropriate authorities. 1.3.5 Describe the four elements to prove medical liability. 1.3.6 Describe the significance of obtaining expressed consent. 1.3.7 Describe the extent to which force and restraint may be used to protect the EMT, the patient, and the third party.

**Introduction**

- A. Appropriate emergency medical care and accurate recording of patient condition and treatment rendered is the best protection if medical legal questions are asked.
- B. Practically every EMT at one time or another has asked about medical liability.
- C. Often damages can be recovered only by action through a court of law.
- D. The EMT must have a basic knowledge of terms and legal process and a working knowledge of applicable local laws and regulations.

**Essential Principles**

- A. Classification of Laws.
  - 1. Criminal law.
  - 2. Civil (tort) law.
- B. Medical practice act
  - 1. Differs somewhat from State to State.
  - 2. EMT must understand purpose of the legislation.
  - 3. EMT must be familiar with appropriate State act particularly the delegation of practice.
- C. Good samaritan act
  - 1. Refer to the origin of concept.
  - 2. Differ from State to State.
  - 3. EMT must understand limitation of such acts.
  - 4. Must be familiar with the appropriate State act.
- D. State EMS legislation
  - 1. Actual statutes promulgated by legal process to provide for the practice of emergency care
    - a. Usually define scope of practice
    - b. Licensure, regulations, certification
    - c. Deals with medical control
    - d. Deals with protocols and communications
  - 2. Motor vehicle laws
    - a. Vary considerably from State to State
    - b. Mandatory for EMT to be familiar with appropriate State statutes regarding operation of emergency vehicles
  - 3. Other significant laws
    - a. Obligation to report:
      - i. Abuse or neglect of the elderly
      - ii. Abuse or neglect of children
      - iii. Rape
      - iv. Gunshot wounds
      - v. Animal bites
      - vi. Other
    - b. Laws dealing with specific privileges/responsibility
      - i. Use of restraint and degree of force allowed
      - ii. Access to restricted areas
      - iii. Living wills
      - iv. Obtaining blood samples for alcohol or narcotic testing
    - c. Interface with other agencies that have statutory responsibility

## INSTRUCTOR'S NOTES

---

Defines crimes and  
associated punishments.  
Deals with civil wrongs  
committed by one individual  
against another.

Bible:  
Luke 10:30-35.

Copies of State documents  
should be made available to  
each student.

Age, speed, use of siren and  
lights.

Airports, military  
installations, prisons.

Request not to be  
resuscitated.

	<ul style="list-style-type: none"> <li>i. Law enforcement</li> <li>ii. Fire/fire scenes</li> <li>iii. Search and rescue agencies</li> <li>iv. Military/restricted areas</li> </ul>
<b>Standard of Care</b>	<ul style="list-style-type: none"> <li>A. The level of practice identified as common and accepted by law</li> <li>B. Provider held to the standard of care of others with similar training and experience                             <ul style="list-style-type: none"> <li>1. Basic EMT versus EMT-P, etc.</li> <li>2. May be defined by protocols</li> </ul> </li> </ul>
<b>Medical Liability</b>	<ul style="list-style-type: none"> <li>A. Neglect/omission                             <ul style="list-style-type: none"> <li>1. Conduct failing to meet standard of care</li> <li>2. Four elements must be proven                                     <ul style="list-style-type: none"> <li>a. Duty to perform</li> <li>b. Breach of duty</li> <li>c. Damages</li> <li>d. Proximate cause</li> </ul> </li> </ul> </li> </ul>
<b>Areas of Potential Medical Liability</b>	<ul style="list-style-type: none"> <li>A. Consent                             <ul style="list-style-type: none"> <li>1. Elements of consent                                     <ul style="list-style-type: none"> <li>a. Informed consent—patient knows and agrees</li> <li>b. Expressed consent—patient gives verbal or written consent</li> <li>c. Implied consent—patient's condition or status implies consent</li> </ul> </li> <li>2. Document/record refusal of consent or treatment</li> <li>3. Who can give consent?                                     <ul style="list-style-type: none"> <li>a. Parent or legal guardian</li> <li>b. State may give consent for wards of the State</li> </ul> </li> </ul> </li> <li>B. Abandonment                             <ul style="list-style-type: none"> <li>1. Termination of the provider/patient relationship without making certain that equal services are available                                     <ul style="list-style-type: none"> <li>a. Do <i>not</i> begin providing care and then discontinue such care</li> <li>b. Do not release care of patient to a lesser level provider if the patient's condition warrants the higher level</li> </ul> </li> </ul> </li> <li>C. Assault                             <ul style="list-style-type: none"> <li>1. Creating apprehension of immediate bodily harm without consent                                     <ul style="list-style-type: none"> <li>a. May be criminal or tort</li> <li>b. Most easily avoided by informing the patient and then obtaining consent</li> </ul> </li> </ul> </li> <li>D. Battery                             <ul style="list-style-type: none"> <li>1. Touching the patient without consent</li> <li>2. May be either criminal or tort</li> <li>3. Avoided by obtaining consent</li> </ul> </li> <li>E. False imprisonment                             <ul style="list-style-type: none"> <li>1. Intentional and unjustifiable detention                                     <ul style="list-style-type: none"> <li>a. Often raised in conjunction with psychiatric cases</li> <li>b. Circumstances may justify the detention   <ul style="list-style-type: none"> <li>i. Evidence of medical necessity</li> <li>ii. Avoided by obtaining consent</li> </ul> </li> </ul> </li> </ul> </li> </ul>



iii. Actions consistent with protocol strengthens your position

**F. Libel**

1. Injuring a person's character, name, or reputation by false and malicious writings
2. Written record must be accurate and confidential
  - a. Avoid slang terms
  - b. Describe behavior; avoid labels

**G. Slander**

1. Limit oral reporting to appropriate personnel
  - a. Avoid slang terms
  - b. Describe behavior; avoid labels
2. Injuring a person's character, name, or reputation by false and malicious spoken words

**Medical Liability  
Protection**

**A. Municipal service immunity/institution/agency coverage**

1. May not cover individual not on duty
2. Often very limited in coverage

**B. Individual medical liability insurance**

1. Policy written for specific needs
2. Advocate for policy holder
3. Essential that the EMT understands the contract
4. Prompt accurate report to carrier essential





---

## BIBLIOGRAPHY

Chayet, N.L., *Legal Implications of Emergency Care*; Chicago.Ill., Appleton-Century-Crofts, 1969

Frew, Stephen A., *Street Law Rights and Responsibilities of the EMT*, Reston, Va., Reston Publishing Company Inc.1983

Goldstein, A.S., *EMS and the Law*; Bowie, Md., R.J. Brady Co., 1983

George, J., *Law and Emergency Care*; St. Louis, Mo., C.V. Mosby Company, 1980

George, J., Editor; "Psychiatric Emergencies"; *EMT Legal Bulletin*, 3 (1):4, 1973